

**MEUERS LAW FIRM, P.L.**

Lawrence H. Meuers, Esq. (197663)  
Katy Koestner Esquivel (Pro Hac Vice)  
5395 Park Central Court  
Naples, FL 34109  
Telephone: (239)513-9191  
Facsimile: (239)513-9677  
lmeuers@meuerslawfirm.com  
kesquivel@meuerslawfirm.com

**COOLEY GODWARD KRONISH LLP**

Martin S. Schenker (109828)  
Whitty Somvichian (194463)  
101 California Street, 5th Floor  
San Francisco, CA 94111-5800  
Telephone: (415) 693-2000  
Facsimile: (415) 693-2222  
wsomvichian@cooley.com  
mschenker@cooley.com

Counsel for Plaintiff/Counter-Defendant  
Natural Selection Foods, LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

NATURAL SELECTION FOODS, LLC dba  
EARTHBOUND FARMS,

Plaintiff/Counter-Defendant,

vs.

RIVER RANCH FRESH FOODS, LLC.,

Defendant/ Counter-Plaintiff.

Case No.: 5:07-cv-02548-JW

**[PROPOSED] ORDER GRANTING MOTION TO  
DISMISS COUNTERCLAIMS AND TO STRIKE  
AFFIRMATIVE DEFENSES**

Date: Monday, November 5, 2007

Time: 9:00 a.m.

Location: Robert F. Peckham Federal  
Building and United States  
Courthouse  
Courtroom 8, 4th Floor  
280 South First Street  
San Jose, CA 95113

This matter comes before the Court on the Motion of Natural Selection Foods, LLC ("Plaintiff/Counter-Defendant") to Dismiss Counterclaims and To Strike Affirmative Defenses brought under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(f). The Court has considered the Motion, the related papers filed by the parties, oral argument, and such other and

1 further matters as the Court deemed necessary and appropriate. Good cause appearing therefor:

2 It is hereby ORDERED that Plaintiff/Counter-Defendant's Motion is GRANTED. The  
3 Counterclaims of River Ranch Fresh Foods, LLC ("River Ranch") are hereby dismissed and the  
4 Affirmative Defenses are hereby struck from the Answer of River Ranch.

5  
6 IT IS SO ORDERED.

7  
8 Dated: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE JUDGE JAMES WARE